

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SHEILA PORTER

Plaintiff,

v.

ANDREA CABRAL, SUFFOLK COUNTY
SHERIFF'S DEPARTMENT and SUFFOLK
COUNTY

Defendant.

Civil Action No.04-11935-DPW

**SHEILA PORTER'S MOTION FOR EXTENSION OF TIME
TO FILE MOTION FOR ATTORNEYS' FEES**

Plaintiff Sheila J. Porter ("Mrs. Porter") hereby moves for a three-week extension to file her Motion for Attorneys' Fees. As grounds therefore, Mrs. Porter states as follows:

1. On January 19, 2006, the jury in this matter returned a verdict in favor of Mrs. Porter.
2. On January 23, 2006, the Court issued a Judgment for Mrs. Porter (1) against Sheriff Cabral and the Suffolk County Sheriff's Department ("SCSD"), jointly and severally, for compensatory damages in the amount of \$360,000 with post-judgment interest, attorneys' fees and costs as provided by law, and (2) against Sheriff Cabral for punitive damages in the amount of \$250,000 with postjudgment interest, attorneys' fees and costs as provided by law.
3. 42 U.S.C. § 1988(b) provides that "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs . . ."

4. Fed. R. Civ. P. 54(d)(2)(B) provides that a motion for attorneys' fees must be filed within 14 days of the entry of judgment. Thus, Mrs. Porter's Motion is due on February 6, 2006.

5. Mindful of the Supreme Court's instruction that a "request for attorney's fees should not result in a second major litigation," *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983), and that the parties should "make a conscientious effort, where a fee award is to be made, to resolve any differences," *Blum v. Stenson*, 465 U.S. 886, 902 n.19 (1984), counsel for Mrs. Porter contacted counsel for the SCSD to confer on the issue of attorneys' fees. Counsel for Mrs. Porter asked that the SCSD consent to a brief extension on the attorneys' fees deadline so that the parties could have a substantive meet-and-confer, which would include an opportunity for the SCSD to review, line-by-line, the fees Mrs. Porter is seeking and make any suggested changes. Unfortunately, counsel for the SCSD refuses to even confer on this issue and refused to assent to the instant Motion. Thus, Mrs. Porter will have no choice but to file a unilateral Motion for Attorneys' Fees.

6. Mrs. Porter requests a two-week extension so that counsel can continue to refine the bill in this matter in an effort to submit a comprehensive, reasonable fee petition, to gather appropriate affidavits and other materials in support of the fee petition, and to renew its request to the SCSD that it make an effort to resolve this issue without involving the Court.¹

WHEREFORE Mrs. Porter respectfully requests that the Court grant her motion and extend the deadline to file her Motion for Attorneys' Fees until February 27, 2006.

¹ Indeed, Mrs. Porter is amenable to refer the entire attorneys' fee matter through mediation, but, at this point, the SCSD has chosen to resolve the fees issue through litigation.

Respectfully submitted,

SHEILA PORTER

By her attorneys,

/s/ David S. Schumacher

Joseph F. Savage Jr. (BBO #443030)

David S. Schumacher (BBO #647917)

GOODWIN PROCTER LLP

Exchange Place

Boston, MA 02109

(617) 570-1000

Dated: February 1, 2006

CERTIFICATION UNDER LOCAL RULE 7.1

I, David S. Schumacher, hereby certify that counsel for Sheila Porter conferred with counsel for the Suffolk Defendants in a good faith attempt to resolve or narrow the issues in this motion prior to its filing.

Dated: February 1, 2006

/s/ David S. Schumacher

David S. Schumacher

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 1, 2006.

/s/ David S. Schumacher
David S. Schumacher